

VZCZCXYZ0001
OO RUEHWEB

DE RUEHML #1219 0760901
ZNR UUUUU ZZH
O 170901Z MAR 06
FM AMEMBASSY MANILA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0038
INFO RHHMUNA/CDRUSPACOM HONOLULU HI PRIORITY
RUEKJCS/JOINT STAFF WASHINGTON DC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY

UNCLAS MANILA 001219

SIPDIS

SENSITIVE
SIPDIS

DEPT FOR EAP, EAP/MTS, L/EAP, EAP/PD
PACOM FOR HUSO

E.O. 12958: N/A
TAGS: [PREL](#) [MARR](#) [KCRM](#) [CASC](#) [RP](#)
SUBJECT: LIKELY POSTPONEMENT OF ARRAIGNMENT OF MARINES IN
ALLEGED RAPE CASE

REF: A. MANILA 1189
[B](#). MANILA 635
[C](#). MANILA 607 AND PREVIOUS

[1](#). (U) On March 17, the alleged victim in the case of four U.S. Marines charged with rape filed an omnibus motion with the Olongapo City Regional Trial Court. The motion requests four actions:

-- that the Court declare unconstitutional Article V, paragraph 6 of the Visiting Forces Agreement (VFA) -- the section detailing custody arrangements under the VFA;

-- that the court issue an "alias warrant" of arrest -- a second, substitute warrant -- for each of the four Marines;

-- that the Executive Department, through the Department of Foreign Affairs, immediately serve these arrest warrants; and,

-- that the Court defer the arraignment pending the resolution of all questions of custody and jurisdiction in the case.

[2](#). (SBU) The Court scheduled a hearing on the motion for Wednesday, 22 March. At that time, the Marines' attorneys intend to request additional time to respond to the motion. The court will likely grant the continuance request. As a result, the arraignment of the Marines, originally scheduled for March 24 (ref A), almost certainly will be postponed.

[3](#). (U) The Secretary of Justice has not yet issued a ruling on the motions from the three Marines, with the end fast approaching to the 60 day deadline.

[4](#). (SBU) Comment: It is not clear what the alleged victim's true motives are in filing this motion. The Court already denied, on February 27, a prosecution motion to issue alias arrest warrants for the four Marines. Moreover, the Philippine Supreme Court already ruled, in 2002, on the constitutionality of the VFA (in Lim vs the Executive Secretary). According to an attorney for one of the Marines,

SIPDIS
the motion is "untenable" and perhaps even a sign of the inexperience of the alleged victim's attorneys. He speculated that the alleged victim's attorneys may be trying to buy time in order to negotiate a settlement.
Jones